

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:
TERRORIST ATTACKS ON
SEPTEMBER 11, 2001

03-MDL-1570 (GBD)(SN)

SUDAN
NOTICE OF AMENDMENT

-----X

This document relates to: Ashton et al., al Qaeda Islamic Army, et al.

No. 02-CV-6977 (GBD)(SN).

Plaintiffs file this Notice of Amendment with respect to the underlying Complaint in the above-referenced matter, ECF No. 3237, as permitted and approved by the Court's Order of December 1st, 2020, ECF No. 6547. Upon the filing of this Notice of Amendment, the underlying Complaint is deemed amended to add the individual(s) listed below (the "New Plaintiff(s)") as plaintiff(s) raising claims against the Republic of the Sudan. The underlying Complaint is deemed amended to include the factual allegations, jurisdictional allegations, and jury trial demand, as indicated below, of (a) the Consolidated Amended Complaint as to the Republic of the Sudan ("SCAC"), ECF No. 6539, or (b) the Ashton Amended Complaint as to Sudan Defendants in Ashton v. the Republic of the Sudan, No. 02-CV-6977 (GBD)(SN), ECF No. 6537 (in 03-md-1570) (hereinafter, the "Ashton Sudan Amended Complaint"), as well as all causes of action specified below. The amendment effected through this Notice of Amendment supplements by incorporation into, but does not displace, the underlying Complaint. This Notice of Amendment relates solely to the Republic of the Sudan and does not apply to any other defendant.

Upon filing this Sudan Notice of Amendment, each New Plaintiff is deemed to have adopted all factual and jurisdictional allegations of the complaint that has been joined as specified below; all prior filings in connection with that complaint; and all prior Orders and rulings of the Court in connection with that complaint.

CAUSES OF ACTION

Each New Plaintiff hereby adopts and incorporates herein by reference the following factual allegations, jurisdictional allegations, and jury trial demand in the following complaint **[check only one complaint]** and the following causes of action set forth in that complaint:

☐ Consolidated Amended Complaint as to the Republic of the Sudan

(“SCAC”), ECF No. 6539 (check all causes of action that apply):

- ☐ COUNT I – Claims under Section 1605A(c) of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605A(c), on behalf of all Plaintiffs granted a private right of action under 28 U.S.C. § 1605A.¹
- ☐ COUNT II – Claims under Section 1605A(d) of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605A(d), on behalf of all Plaintiffs granted a private right of action under 28 U.S.C. § 1605A.²
- ☐ COUNT III – Aiding and Abetting and Conspiring with Al Qaeda to commit the September 11th Attacks upon the United States in Violation of 18 U.S.C. § 2333(d) (JASTA), on behalf of all “U.S. National” Plaintiffs.³
- ☐ COUNT IV – Aiding and Abetting and Conspiring with Al Qaeda to commit the September 11th Attacks upon the United States in Violation of 18 U.S.C. § 2333(a), on behalf of all “U.S. National” Plaintiffs.
- ☐ COUNT V – Committing acts of international terrorism in violation of 18 U.S.C. § 2333, on behalf of all “U.S. National” Plaintiffs.⁴
- ☐ COUNT VI – Wrongful Death, on behalf of all plaintiffs bringing Wrongful Death claims.

¹ Section 1605A of the Foreign Sovereign Immunities Act grants a right of action to (1) nationals of the United States, (2) members of the armed forces, (3) employees of the U.S. government (including individuals performing a contract awarded by the U.S. Government) acting within the scope of employment, and legal representatives of persons described in (1), (2), or (3).

² See preceding footnote.

³ The causes of action pursuant to the ATA, 18 U.S.C. § 2331 et seq., are asserted on behalf of plaintiffs who are U.S. nationals; estates, heirs, and survivors of U.S. nationals; U.S. nationals who are members of a putative class represented by such plaintiffs; plaintiffs who are subrogated to the rights of U.S. nationals who incurred physical injuries to property and related losses as a result of the September 11th attacks; and plaintiffs who are assignees of U.S. nationals killed or injured in the September 11th attacks. The term “U.S. National Plaintiffs” in the context claims under JASTA or the ATA refers to all such parties.

⁴ See receding footnote.

- ☐ COUNT VII – Negligence, on behalf of all plaintiffs.
- ☐ COUNT VIII – Survival, on behalf of all plaintiffs bringing wrongful death claims.
- ☐ COUNT IX – Alien Tort Claims Act, on behalf of all Alien National Plaintiffs.⁵
- ☐ COUNT X – Assault and Battery, on behalf of all plaintiffs bringing wrongful death and personal injury claims.
- ☐ COUNT XI – Conspiracy, on behalf of all plaintiffs.
- ☐ COUNT XII – Aiding and Abetting, on behalf of all plaintiffs.
- ☐ COUNT XIII – Negligent and/or intentional infliction of emotional distress on behalf of all plaintiffs.
- ☐ COUNT XIV – Liability pursuant to Restatement (SECOND) of Torts § 317 and Restatement (THIRD) of Agency § 7.05: Supervising Employees and Agents, on behalf of all plaintiffs.
- ☐ COUNT XV – Liability pursuant to Restatement (SECOND) of Torts § 317 and Restatement (THIRD) of Agency § 7.05: Hiring, Selecting, and Retaining Employees and Agents, on Behalf of all plaintiffs.
- ☐ COUNT XVI – 18 U.S.C. § 1962(a)-(d) – Civil RICO, on behalf of all plaintiffs.
- ☐ COUNT XVII – Trespass, on behalf of all plaintiffs asserting claims for property damage and economic injuries.
- ☐ COUNT XVIII – Violations of international law, on behalf of all plaintiffs.

☒ Ashton Sudan Amended Complaint, ECF No. 6537 (check all causes of action that apply):

- ☒ First Cause of Action to Recover Personal Injury and Wrongful Death Damages Pursuant to Section 1605A of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605A.

⁵ The causes of action pursuant to the Alien Tort Claims Act (ATCA), 28 U.S.C. § 1350, are asserted on behalf of plaintiffs who are alien nationals; estates, heirs, and survivors of alien nationals who are not themselves U.S. nationals; alien nationals who are members of a putative class represented by such plaintiffs; subrogated to the rights of alien nationals who incurred injuries to property and related losses as a result of the September 11th attacks; and assignees of alien nationals killed or injured in the September 11th attacks.

- ☒ Second Cause of Action to Recover Personal Injury and Wrongful Death Damages Pursuant to Section 1605B of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605B (JASTA) and the Anti-Terrorism Acts.
- ☒ Third Cause of Action for Personal Injury and Wrongful Death Injuries Pursuant to State Tort Law.
- ☒ Fourth Cause of Action for Personal Injury and Wrongful Death Damages Pursuant to the Alien tort Claims Act.
- ☒ Fifth Cause of Action for Punitive Damages.
- ☐ Sixth Cause of Action for Property Damage.

IDENTIFICATION OF NEW PLAINTIFFS

Each New Plaintiff is or was a survivor of a person who died due to the terrorist attacks of September 11, 2001. For each New Plaintiff, the following chart lists the New Plaintiff's name, the New Plaintiff's residency and nationality, the name of the New Plaintiff's deceased family member, the New Plaintiff's relationship to the decedent, and the paragraph(s) of the underlying Complaint discussing the decedent and/or the decedent's estate.

	Plaintiff's Name (alphabetical by last name)	Plaintiff's State of Residency at filing (or death)	New Plaintiff's Citizenship/N ationality on 9/11/2001	9/11 Decedent's Name	New Plaintiff's Relationship to 9/11 Decedent	Paragraphs of Complaint Discussing 9/11 Decedent
1	Berry, Alexander Ashton	NY	USA	Berry, David S.	Child	N/A
2	Berry, Nile Philip	NY	USA	Berry, David S.	Child	N/A
3	Berry, Paula	NY	USA	Berry, David S.	Spouse	N/A
4	Berry, Reed Nicholas	NY	USA	Berry, David S.	Child	N/A
5	Calcagno, Susan	NY	USA	Calcagno, Philip	Spouse	N/A
6	Espinoza, Christian	FL	USA	Espinoza, Fanny	Child	N/A
7	Espinoza, Luis	FL	USA	Espinoza, Fanny	Spouse	N/A
8	Espinoza, Stephanie	FL	USA	Espinoza, Fanny	Child	N/A
9	Glazer, Candy	CA	USA	Glazer, Edmund	Spouse	N/A
10	Glazer, Nathan	CA	USA	Glazer, Edmund	Child	N/A

	Plaintiff's Name (alphabetical by last name)	Plaintiff's State of Residency at filing (or death)	New Plaintiff's Citizenship/N ationality on 9/11/2001	9/11 Decedent's Name	New Plaintiff's Relationship to 9/11 Decedent	Paragraphs of Complaint Discussing 9/11 Decedent
11	Gurian, Eva Mallery	NJ	USA	Gurian, Douglas B.	Child	N/A
12	Gurian, Susan Mallery	NJ	USA	Gurian, Douglas B.	Spouse	N/A
13	Gurian, Tyler Douglas	NJ	USA	Gurian, Douglas B.	Child	N/A
14	Kates, Daniel Henry	NY	USA	Kates, Andrew	Child	N/A
15	Kates, Hannah	NY	USA	Kates, Andrew	Child	N/A
16	Kates, Lucy	NY	USA	Kates, Andrew	Child	N/A
17	Palazzo Libby, Kristen	MA	USA	Palazzo, Thomas A.	Child	N/A
18	Palazzo, Kaitlin Elizabeth	NY	USA	Palazzo, Thomas A.	Child	N/A
19	Palazzo, Keri Ann	NY	USA	Palazzo, Thomas A.	Child	N/A
20	Palazzo, Lisa	NY	USA	Palazzo, Thomas A.	Spouse	N/A
21	Terry, Emily	NY	USA	Kates, Andrew	Spouse	N/A
22	Wik Farese, Patricia	NJ	USA	Wik, William J.	Child	N/A
23	Wik, Daniel	NY	USA	Wik, William J.	Child	N/A
24	Wik, Kathleen	NY	USA	Wik, William J.	Spouse	N/A
25	Wik, Kathleen	NY	USA	Wik, William J.	Child	N/A

Dated: January 29, 2021

Respectfully submitted,

KREINDLER & KREINDLER LLP

BY: /s/ James P. Kreindler
James P. Kreindler, Esq.
Andrew J. Maloney III, Esq.
750 Third Avenue, 32nd Floor
New York, New York 10017
Tel: (212) 687-8181
COUNSEL FOR PLAINTIFFS